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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,765	07/31/2003	Ta-Kwang Hung	FP9675	8459
52981	7590	12/15/2005	EXAMINER	
LEONG C LEI			POLLICOFF, STEVEN B	
PMB # 1008			ART UNIT	
1867 YGNACIO VALLEY ROAD			PAPER NUMBER	
WALNUT CREEK, CA 94598			3728	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/630,765	<b>Applicant(s)</b> HUNG, TA-KWANG	
	<b>Examiner</b> Steven B. Pollicoff	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. The form and legal phraseology often used in patent claims, such as "comprising," "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title.

Applicant is reminded of the proper content of an abstract of the disclosure. Extensive mechanical and design details of apparatus should not be given.

The abstract of the disclosure is objected to because the term "inherited," Line 9, should read "inherent." Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: see Specification: Page 1, Line 12. The term "complicate" should read "complicated." Pages 3 and 6, Lines 10 and 18, respectively, the term "inherited," Line 9, should read "inherent."

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to

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comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: see Specification, Page 3, Lines 19-20; Page 4, Line 1. The sentence should be written to complete Applicant's thought. Additionally, Applicant should clarify how the support rods within the box are readjusted or pushed back into place simply by turning the box upside down (see Specification, Page 4, Lines 1-4).

Appropriate correction is required.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: see Claim 1, Line 10: The term "inherited" should read "inherent." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors (see specifically: Claim 1, Lines 6-15 generally).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hauze (U.S. Pat. No. 4,798,292).

Hauze discloses a tool box (see Hauze Fig. 1 generally), a plane positioning means (Fig. 2, reference number 20) containing a base plate (Fig. 2, reference number 23) with multiple through holes (Fig. 2 generally and Fig. 3, reference number 24) and multiple support rods (Fig. 2, reference number 30). The outer diameter of the support rod is equal to the inner diameter of its corresponding through hole (Fig. 4 generally). Because the rods can slide up through the base plate, they are capable of supporting tools that may lay on them when a proper force is applied. Only those rods in direct contact with the tool are retracted into the through holes in the base plate. The rods unaffected by the weight of the tool in the tool box serve as lateral supports during transport (see Hauze Column 6, Lines 26-32).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of record as disclosed in the instant specification as described on pages 1 and 2 and as shown in Fig. 1 in view of Vollom (U.S. Pat. No. 6,298,587).

As to Claim 1, the admitted prior art discloses a tool box (see Fig. 1, reference number 3) and a plane positioning means (Fig. 1, reference number 31). The admitted prior art does not disclose a plane positioning means containing a base plate with multiple through holes and multiple support rods. However, Vollom discloses a plane positioning means (see Vollom, Fig. 2A, reference number 10) containing a base plate (Fig. 2A, reference number 14) with multiple through holes (Fig. 2A, reference number 18) and multiple support rods (Fig. 2A, reference number 21) for the purpose of retaining a tool for storage and transport. Vollom also discloses that the outer diameter of the support rod is equal to the inner diameter of its corresponding through hole (Fig. 2A generally). Additionally, because the rods can slide up through the base plate, they are capable of supporting tools that may lay on them when a proper force is applied (Column 2, Lines 60-67). Only those rods in direct contact with the tool are retracted into the through holes in the base plate and the rods unaffected by the weight of the tool in the tool box serve as lateral supports (Fig. 1A generally). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the plane positioning means of the admitted prior art or record with the plane positioning

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means as disclosed in Vollom to better protect, store, and retain a variety of tools until needed or required for use.

As to Claim 2, Vollom discloses a support rod with an outwardly expanded head (Fig. 2A, reference number 22; see also Column 4, Lines 5-10).

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fleming (U.S. Pat. No. 4,654,989) discloses a device with support rods that conforms to the shape of an object when force is applied. Rebiere (U.S. Pat. No. 6,160,264) disclose a device that also has support rods and conforms to the shape of the object when a force is applied.

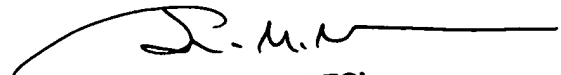
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SBP 12/12/05

  
**JILA M. MOHANDESI**  
**PRIMARY EXAMINER**